



Writ Petition No.3507 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 2/12/2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Writ Petition No.3507 of 2013

M. Ramathal

...

Petitioner

Vs

The Executive Engineer
Water Resources Organization
Kalingarayan Channel Division
Lower Bhavani Basin Division
Public Works Department
Erode 638 002.

...

Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records pertaining to an order passed by the respondent in Letter No.V3/Ko.509/25Pira/2013 dated 23/1/2013 and quash the same and consequently direct the respondent to issue “No Objection Certificate” to the Tamil Nadu Electricity Board for granting electricity service connection to the petitioner's well situated in S.No.821/1G at Kullagoundenpudur, Punjai Kolanalli Village, Erode Taluk, Erode District.



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For Petitioner ... Mr.R.Marudhachalamurthy

For respondent ... Mr.P.Sanjay Gandhi
Government Advocate

ORDER

This writ petition has been filed to quash the order, dated 23/1/2013 passed by the respondent and consequently, direct the respondent to issue “No Objection Certificate” to the Tamil Nadu Electricity Board, for granting electricity service connection to the petitioner's well, situated in S.No.821/1G at Kullagoundenpudur, Punjai Kolanalli Village, Erode Taluk, Erode District.

2. Originally, the petitioner had filed W.P.No.766 of 2010, wherein, also he has sought for a direction to the respondent, to effect service connection to his well. This Court, vide, order, dated 16/11/2011, allowed the writ petition and directed the Executive Engineer, Water Resources Department, Erode, first respondent therein, to issue No Objection Certificate to the petitioner, within a period of one month, from the date of receipt of a copy of the said order and thereafter, the Executive Engineer, Tamil Nadu Electricity Board Distribution/South, Erode, second respondent therein, was directed to grant electricity service connection to the petitioner



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well in S.No.821/1G at Kullagoundenpudur, Punjail Kolanalli Village,
Erode Taluk, Erode District.

3. Being aggrieved, respondents in W.P.No.766 of 2010, have filed W.A.No.2322 of 2011. This Court, vide, order, dated 7/12/2012, held as follows:-

“7. As it is stated by the first appellant in W.A.No.2322 of 2011 that in view of the pendency of W.P.No.35420 of 2003, the request made by the respondent in W.A.No.2322 of 2011 to issue 'No Objection Certificate' for getting electricity service connection to his well would be pursued based on the final order to be passed in W.P.No.35420 of 2003 and in view of the dismissal of the said writ petition, it is open to the authorities to pass appropriate orders in accordance with law.”

4. The respondent has considered the grievance of the petitioner and rejected the same, on the ground that well is situate within the prohibited area.



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5. Learned counsel appearing for the petitioner submitted that on an earlier occasion, this Court, had directed them to provide electricity connection considering the fact that other persons were given the same relief.

6. The learned counsel appearing for the respondent submitted that there is a specific G.O., prohibiting electricity connection to the well situate within 50 meters from the toe of the bund of the Kalingarayan channel, taking into consideration the welfare of the tail end ayacutdars, request of the petitioner cannot be entertained.

7. During submissions, it is submitted by the learned counsel for the petitioner that the petitioner is owning totally 2.25 acres of agricultural land in RSF.No.821/2A which is very near to the existing well and he has already dug borewell in the above S.No., in respect of which electricity connection has already given. According to him, an another well is also dug by the petitioner near the bore well. Therefore, they are ready to change over to the well to the existing connection.



8. The fact that the existing connection has already availed by the petitioner in RSF.No.821/2A is not disputed by the petitioner, similarly, the existence of another well in RSF.No.821/2A is also not in dispute. However, the petitioner insisting the electricity connection in S.No.821/D, admittedly, which is situate within the prohibited area, as per the G.O., referred above. Though the learned counsel for the petitioner brought to the notice of this Court that other persons are also granted connection within the prohibited area, this Court is of the view that merely because some illegality followed by the officials in extending such connections to the prohibited area, the petitioner as a matter of right cannot seek connection citing the discrimination.

9. In such a view of the matter, merely because some connections have been granted violating the Government Order, the same cannot be a ground to extend the same benefit to the petitioner. It is for the respondents to take effective steps to disconnect the connections, which were already granted in the prohibited area, as per law. It is well open to the petitioner to avail the change over of 10 HP in SC No.043-002-749 from the new bore well in R.S.F.No.821/2A to the newly dug well in R.S.F.No.821/2A. By this change over, the demand of the petitioner will be fulfilled, and the said stand



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N. SATHISH KUMAR, J
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has been recorded by the Executive Engineer, WRD., Lower Bhavani Basin Division, in his status report, dated 22/11/2022.

10. With the above observation, this writ petition is disposed of. No costs.

2/12/2022

Index : Yes / No
Internet: Yes
Speaking/non speaking order

mvs.

To

The Executive Engineer, Water Resources Organization
Kalingarayan Channel Division, Lower Bhavani Basin Division
Public Works Department, Erode 638 002.

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